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AUG 27 2004

OFFICE OF PETITIONS

In re Application of
Christiansen :
Application No. 10/667,241 :
Filed: 18 September, 2003 :
Attorney Docket No. 18602-08301 (P1547R1C1) :

ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(b), filed 12 May, 2004.¹

The petition is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37

¹ The regulations at 37 C.F.R. 1.47 provide:
§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

With regard to Petitioner's effort to satisfy the showing under the Rule with regard to the Examiner's requirement of 18 March, 2003, for a new oath/declaration by the now "non-signing" inventor and in response to the 7 November, 2003, Notice of Missing Parts (Filing Date Granted): Specifically, the record and the declarations/statements of facts of and document submission by Daniel R. Brownstone (Reg. No. 46,581) establish that:

- the Assignee Apple Computer, Inc., has a proprietary interest in the above-identified application with the assignment recorded at Reel/Frame No. 8106/0975;
- inventor Kevin M Christiansen (Mr. Christiansen) has been presented with the entire application (with amendment(s)) and has failed to sign the re-issue application consistent with the requirement of the Examiner; and
- Petitioner has set forth in the petition the last known address of the non-signing inventor.

However, while Petitioner has submitted an oath/declaration, it is signed by Petitioner without a statement of the assignee or Petitioner that Petitioner is authorized to sign in compliance with 37 C.F.R. §1.63 and §1.64. (See: MPEP §409.03(b).)

ANALYSIS

The commentary at MPEP §409.03(b) states in pertinent part:

(A) The 37 C.F.R. §1.47(b) applicant must make the oath required by 37 C.F.R. §1.63 and §1.64 or §1.175. Where a corporation is the 37 C.F.R. §1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he

or she is authorized to sign on behalf of the corporation. (Emphasis supplied.)

CONCLUSION

The materials submitted thus far do not clearly evidence Petitioner's authority to sign the oath or declaration on behalf of the assignee.

Petitioner must submit such a statement or an oath/declaration signed by the appropriate corporate officer of the assignee.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: (Effective 1 May, 2003)²
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(703) 872-9306
(Effective 28 September, 2004: (571-273-0025)
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, VA 22202

² To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

Telephone inquiries regarding this decision should be directed to the undersigned at 703-305-9199.

A handwritten signature in black ink, appearing to read "J. Gillon, Jr.", with a stylized flourish at the end.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions